



Senate

General Assembly

File No. 355

February Session, 2022

Senate Bill No. 357

Senate, April 6, 2022

The Committee on Insurance and Real Estate reported through SEN. LESSER of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING COPAY ACCUMULATOR PROGRAMS AND HIGH DEDUCTIBLE HEALTH PLANS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-477ff of the 2022 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage and applicable to policies delivered, issued for delivery,*
4 *renewed, amended or continued on or after January 1, 2022*):

5 (a) Each insurer, health care center, hospital service corporation,
6 medical service corporation, fraternal benefit society or other entity that
7 delivers, issues for delivery, renews, amends or continues an individual
8 or group health insurance policy in this state on or after January 1, 2022,
9 providing coverage of the type specified in subdivisions (1), (2), (4), (11)
10 and (12) of section 38a-469 shall, when calculating an insured's liability
11 for a coinsurance, copayment, deductible or other out-of-pocket expense
12 for a covered benefit, give credit for any discount provided or payment
13 made by a third party for the amount of, or any portion of the amount
14 of, the coinsurance, copayment, deductible or other out-of-pocket

15 expense for the covered benefit.

16 (b) The provisions of subsection (a) of this section shall apply to a
17 high deductible health plan, as that term is used in subsection (f) of
18 section 38a-493 or subsection (f) of section 38a-520, as applicable, to the
19 maximum extent permitted by federal law, except if such plan is used
20 to establish a medical savings account or an Archer MSA pursuant to
21 Section 220 of the Internal Revenue Code of 1986, or any subsequent
22 corresponding internal revenue code of the United States, as amended
23 from time to time, or a health savings account pursuant to Section 223
24 of said Internal Revenue Code, as amended from time to time, the
25 provisions of said subsection (a) shall apply to such plan to the
26 maximum extent that (1) is permitted by federal law, and (2) does not
27 disqualify such account for the deduction allowed under said Section
28 220 or 223, as applicable.

29 Sec. 2. Section 38a-477gg of the 2022 supplement to the general
30 statutes is repealed and the following is substituted in lieu thereof
31 (*Effective from passage and applicable to contracts entered into on or after*
32 *January 1, 2022*):

33 (a) On and after January 1, 2022, each contract entered into between
34 a health carrier, as defined in section 38a-591a, and a pharmacy benefits
35 manager, as defined in section 38a-479aaa, for the administration of the
36 pharmacy benefit portion of a health benefit plan in this state on behalf
37 of plan sponsors shall require that the pharmacy benefits manager,
38 when calculating an insured's or enrollee's liability for a coinsurance,
39 copayment, deductible or other out-of-pocket expense for a covered
40 prescription drug benefit, give credit for any discount provided or
41 payment made by a third party for the amount of, or any portion of the
42 amount of, the coinsurance, copayment, deductible or other out-of-
43 pocket expense for the covered prescription drug benefit.

44 (b) The provisions of subsection (a) of this section shall apply to a
45 high deductible health plan, as that term is used in subsection (f) of
46 section 38a-493 or subsection (f) of section 38a-520, as applicable, to the
47 maximum extent permitted by federal law, except if such plan is used

48 to establish a medical savings account or an Archer MSA pursuant to
49 Section 220 of the Internal Revenue Code of 1986, or any subsequent
50 corresponding internal revenue code of the United States, as amended
51 from time to time, or a health savings account pursuant to Section 223
52 of said Internal Revenue Code, as amended from time to time, the
53 provisions of said subsection (a) shall apply to such plan to the
54 maximum extent that (1) is permitted by federal law, and (2) does not
55 disqualify such account for the deduction allowed under said Section
56 220 or 223, as applicable.

57 Sec. 3. Section 38a-478w of the 2022 supplement to the general
58 statutes is repealed and the following is substituted in lieu thereof
59 (*Effective from passage and applicable to contracts delivered, issued for*
60 *delivery, renewed, amended or continued on or after January 1, 2022*):

61 (a) For any contract delivered, issued for delivery, renewed, amended
62 or continued in this state on or after January 1, 2022, each managed care
63 organization shall, when calculating an enrollee's liability for a
64 coinsurance, copayment, deductible or other out-of-pocket expense for
65 a covered benefit, give credit for any discount provided or payment
66 made by a third party for the amount of, or any portion of the amount
67 of, the coinsurance, copayment, deductible or other out-of-pocket
68 expense for the covered benefit.

69 (b) The provisions of subsection (a) of this section shall apply to a
70 high deductible health plan, as that term is used in subsection (f) of
71 section 38a-493 or subsection (f) of section 38a-520, as applicable, to the
72 maximum extent permitted by federal law, except if such plan is used
73 to establish a medical savings account or an Archer MSA pursuant to
74 Section 220 of the Internal Revenue Code of 1986, or any subsequent
75 corresponding internal revenue code of the United States, as amended
76 from time to time, or a health savings account pursuant to Section 223
77 of said Internal Revenue Code, as amended from time to time, the
78 provisions of said subsection (a) shall apply to such plan to the
79 maximum extent that (1) is permitted by federal law, and (2) does not
80 disqualify such account for the deduction allowed under said Section

81 220 or 223, as applicable.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to policies delivered, issued for delivery, renewed, amended or continued on or after January 1, 2022</i>	38a-477ff
Sec. 2	<i>from passage and applicable to contracts entered into on or after January 1, 2022</i>	38a-477gg
Sec. 3	<i>from passage and applicable to contracts delivered, issued for delivery, renewed, amended or continued on or after January 1, 2022</i>	38a-478w

INS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill results in no fiscal impact to the state or municipalities.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**SB 357*****AN ACT CONCERNING COPAY ACCUMULATOR PROGRAMS AND HIGH DEDUCTIBLE HEALTH PLANS.*****SUMMARY**

This bill applies the state's copay accumulator program prohibition (see BACKGROUND) to high deductible health plans (HDHPs) to the maximum extent permitted by federal law. It applies it to HDHPs that are used to establish a health savings account (HSA), medical savings account (MSA), or Archer MSA to the maximum extent permitted by federal law and that does not disqualify the insured from receiving the associated federal tax benefits.

Under federal law, an HDHP is a health plan that satisfies certain requirements, including those related to minimum deductibles and maximum out-of-pocket expenses. Individuals with eligible HDHPs may make pre-tax contributions to an HSA, MSA, or Archer MSA and use the account for qualified medical expenses.

According to the Internal Revenue Service (IRS), an individual covered by an HDHP who also uses a discount card for health care services or products, may still contribute to an HSA as long as the individual must pay the costs of the covered health care until the HDHP's minimum annual deductible is satisfied (IRS Notice 2021-0014).

EFFECTIVE DATE: Upon passage, and applicable to policies or contracts delivered, issued, renewed, amended, or continued on or after January 1, 2022.

BACKGROUND***Copay Accumulator Program Prohibition***

PA 21-14, which took effect January 1, 2022, requires certain health

carriers (e.g., insurers and HMOs) and pharmacy benefits managers, when calculating a covered individual’s cost sharing liability (e.g., coinsurance, copayment, or deductible) for a covered benefit, to credit discounts provided and payments made by a third party for any portion of the cost sharing. Thus, it prohibits copay accumulator programs, under which drug manufacturer discount cards, coupons, and copay assistance generally do not apply toward a covered individual’s cost sharing responsibility.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 17 Nay 0 (03/22/2022)